



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1908

Introduced 2/9/2023, by Sen. Celina Villanueva

SYNOPSIS AS INTRODUCED:

New Act

Creates the Warehouse Worker Protection Act. Provides that each employer shall provide to each employee, upon hire, or within 30 days after the effective date of the Act, whichever is later, a written description of each quota to which the employee is subject, including the quantified number of tasks to be performed or materials to be produced or handled, within a defined time period, and any potential adverse employment action that could result from failure to meet the quota. Provides that an employee shall not be required to meet a quota that prevents compliance with meal or rest periods or use of bathroom facilities, including reasonable travel time to and from bathroom facilities. Requires employers to post a notice of employees' rights under the Act and to comply with certain recordkeeping requirements. Establishes civil penalties for noncompliance with the Act. Provides for a private right of action. Sets forth provisions concerning definitions, employee's right to request records, enforcement, and severability. Effective 60 days after becoming law.

LRB103 27143 RPS 53512 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Warehouse Worker Protection Act.

6 Section 5. Definitions. As used in this Act:

7 "Aggregated data" means information that an employer has
8 combined or collected together in summary or other form such
9 that the data cannot be identified with any individual.

10 "Controlled group of corporations" has the same meaning as
11 provided under Section 1563 of the Internal Revenue Code, 26
12 U.S.C. 1563, except that 50% shall be substituted for 80%
13 where 80% is specified in that definition.

14 "Defined time period" means any unit of time measurement
15 equal to or less than the duration of an employee's shift and
16 includes hours, minutes, and seconds and any fraction thereof.

17 "Designated employee representative" means any employee
18 representative, including, but not limited to, an authorized
19 employee representative that has a collective bargaining
20 relationship with the employer.

21 "Director" means the Director of Labor.

22 "Employee" means a nonadministrative employee who is not
23 exempt from the overtime and minimum wage requirements of the

1 federal Fair Labor Standards Act of 1938, as amended, and who
2 works at a warehouse distribution center and is subject to a
3 quota.

4 "Employee work speed data" means information an employer
5 collects, stores, analyzes, or interprets relating to an
6 individual employee's performance of a quota, including, but
7 not limited to, quantities of tasks performed, quantities of
8 items or materials handled or produced, rates or speeds of
9 tasks performed, measurements or metrics of employee
10 performance in relation to a quota, and time categorized as
11 performing tasks or not performing tasks.

12 "Employer" means a person who directly or indirectly, or
13 through an agent or any other person, including through the
14 services of a third-party employer, temporary services, or
15 staffing agency, independent contractor, or any similar
16 entity, at any time in the prior 12 months, employs or
17 exercises control over the wages, hours, or working conditions
18 of 100 or more employees at a single warehouse distribution
19 center or 500 or more employees at one or more warehouse
20 distribution centers in the State. For the purposes of this
21 definition: (1) all employees employed directly or indirectly,
22 or through an agent or any other person, as described in this
23 definition, as well as any employee employed by a member of a
24 controlled group of corporations of which the employer is a
25 member, shall be counted in determining the number of
26 employees employed at a single warehouse distribution center

1 or at one or more warehouse distribution centers in the State;
2 and (2) all agents or other persons, as described in this
3 definition, and all members of a controlled group of
4 corporations of which the employer is a member, shall be
5 deemed to be employers and shall be jointly and severally
6 responsible for compliance with this Act.

7 "Person" means an individual, corporation, partnership,
8 limited partnership, limited liability partnership, limited
9 liability company, business trust, estate, trust, association,
10 joint venture, agency, instrumentality, or any other legal or
11 commercial entity, whether domestic or foreign.

12 "Quota" means a work standard that:

13 (1) an employee is assigned or required to perform at
14 a specified productivity speed or a quantified number of
15 tasks or to handle or produce a quantified amount of
16 material, within a defined time period; or

17 (2) categorizes an employee's actions between time
18 performing tasks and not performing tasks, and the
19 employee's failure to complete a task performance standard
20 or recommendation may have an adverse impact on the
21 employee's continued employment or the conditions of such
22 employment.

23 "Warehouse distribution center" means an establishment as
24 defined by any of the following North American Industry
25 Classification System (NAICS) codes, however such
26 establishment is denominated:

- 1 (1) 493 for Warehousing and Storage;
- 2 (2) 423 for Merchant Wholesalers, Durable Goods;
- 3 (3) 424 for Merchant Wholesalers, Nondurable Goods;
- 4 (4) 454110 for Electronic Shopping and Mail-Order
- 5 Houses; or
- 6 (5) 492110 for Couriers and Express Delivery Services.

7 Section 10. Disclosure of quotas. Each employer shall
8 provide to each employee, upon hire or within 30 days after the
9 effective date of this Act, whichever is later, a written
10 description of each quota to which the employee is subject,
11 including the quantified number of tasks to be performed or
12 materials to be produced or handled, within a defined time
13 period, and any potential adverse employment action that could
14 result from failure to meet the quota. Each time the quota
15 changes thereafter, the employer shall provide an updated
16 written description of each quota to which the employee is
17 subject within 2 business days of such quota change. Each time
18 an employer takes an adverse employment action against an
19 employee based on a quota, the employer shall provide that
20 employee with a written explanation regarding the manner in
21 which the employee failed to perform, including the applicable
22 quota and comparison of the employee's work performance in
23 relation to that quota.

24 An employer that fails to disclose a quota to an employee
25 shall be subject to a civil penalty of \$100 per pay period for

1 every pay period the employee worked before the employer
2 disclosed the quota.

3 Section 15. Protection from quotas. An employee shall not
4 be required to meet a quota that prevents compliance with meal
5 or rest periods or use of bathroom facilities, including
6 reasonable travel time to and from bathroom facilities. An
7 employer shall not take adverse employment action against an
8 employee for failure to meet a quota that does not allow a
9 worker to comply with meal and rest periods or for failure to
10 meet a quota that has not been disclosed to the employee
11 pursuant to Section 10.

12 Section 20. Time on task. Consistent with existing law,
13 paid and unpaid breaks shall not be considered productive time
14 for the purpose of any quota or monitoring system unless the
15 employee is required to remain on call.

16 Section 25. Recordkeeping.

17 (a) Each employer shall establish, maintain, and preserve
18 contemporaneous, true, and accurate records of the following:

19 (1) each employee's own personal work speed data;

20 (2) the aggregated work speed data for similar
21 employees at the same establishment; and

22 (3) the written descriptions of the quota such
23 employee was provided pursuant to Section 10.

1 Records under this subsection shall be maintained and
2 preserved throughout the duration of each employee's period of
3 employment and made available to the Director or his or her
4 representative upon request.

5 (b) After any employee's separation from the employer,
6 such records relating to the 6-month period prior to the date
7 of the employee's separation from the employer shall be
8 preserved for a period of time not less than 3 years after the
9 date of such employee's separation and made available to the
10 Director or his or her representative upon request. Nothing in
11 this Section shall require an employer to keep such records if
12 such employer does not use quotas as defined in this Act or
13 monitor work speed data.

14 Section 30. Employee's right to request records.

15 (a) A current employee has the right to request a written
16 description of each quota to which the employee is subject, a
17 copy of the employee's own personal work speed data, and a copy
18 of the prior 6 months of aggregated work speed data for similar
19 employees at the same establishment.

20 (b) A former employee has the right to request, within 3
21 years after the date of his or her separation from the
22 employer, a written description of the quota to which he or she
23 was subject as of the date of his or her separation, a copy of
24 the employee's own personal work speed data for the 6 months
25 prior to his or her date of separation, and a copy of

1 aggregated work speed data for similar employees at the same
2 establishment for the 6 months prior to his or her date of
3 separation.

4 (c) Requested records under this Section shall be provided
5 at no cost to the current or former employee.

6 (d) The employer shall provide the requested records under
7 this Section as soon as practicable; however, requested
8 written descriptions of the quota shall be provided no later
9 than 2 business days following the date of the receipt of the
10 request and requested personal work speed data and aggregated
11 work speed data shall be provided no later than 7 business days
12 following the date of the receipt of the request.

13 (e) Nothing in this Section shall require an employer to
14 use quotas as defined in this Act or monitor work speed data.
15 An employer that does not monitor this data has no obligation
16 to provide it.

17 Section 35. Unlawful retaliation.

18 (a) No person, including, but not limited to, an employer,
19 his or her agent, or person acting as or on behalf of a hiring
20 entity, or the officer or agent of any entity, business,
21 corporation, partnership, or limited liability company, shall
22 discharge or in any way retaliate, discriminate, or take
23 adverse action against any person for exercising any rights
24 conferred under this Act or for being perceived as exercising
25 rights conferred by this Act, including, but not limited to:

1 (1) Initiating a request for information about a quota
2 or personal work speed data pursuant to subsection (a) of
3 Section 30.

4 (2) Making a complaint related to a quota alleging any
5 violation of Section 10, 15, 20, or 30 to the Director or
6 his or her representative; any other local, state, or
7 federal governmental agency or official; or the employer.

8 (b) An employee need not explicitly refer to this Act or
9 the rights enumerated in this Act to be protected from an
10 adverse action. The protections of this Section shall apply to
11 former employees and to employees who mistakenly but in good
12 faith allege violations of this Act.

13 (c) If a person takes adverse action against an employee
14 within 90 days of the employee's engaging or attempting to
15 engage in activities protected by this Act, such conduct shall
16 raise a rebuttable presumption that the action is an adverse
17 action in violation of this Act. Such presumption may be
18 rebutted by clear and convincing evidence that: (1) the action
19 was taken for other permissible reasons; and (2) the engaging
20 or attempting to engage in activities protected by this Act
21 was not a motivating factor in the adverse action.

22 Section 40. Notice to employees. Every employer covered by
23 this Act shall post and keep posted, in conspicuous places on
24 the premises of the employer where notices to employees are
25 customarily posted, a notice, to be prepared or approved by

1 the Director of Labor, regarding employees' rights under this
2 Act, including what constitutes a permissible quota and
3 employees' right to request quota and speed date information,
4 and making a complaint to various State authorities regarding
5 a violation of an employee's quota rights under this Act.

6 Section 45. Enforcement. The Department of Labor shall
7 adopt rules implementing this Act. The Director shall be
8 authorized to enforce this Act and to assess civil penalties
9 in a manner consistent with State law.

10 Section 50. Workplace inspections. If a particular work
11 site or employer is found to have an annual employee injury
12 rate of at least 1.5 times as high as the warehousing
13 industry's average annual injury rate as published by the
14 Bureau of Labor Statistics' most recent fatal and non-fatal
15 occupational injuries and illnesses data, the Director or his
16 or her representative shall conduct an investigation of
17 violations pursuant to this Act.

18 Section 55. Private right of action. A current or former
19 employee or his or her representative may bring an action for
20 injunctive relief to obtain compliance with this Act and may,
21 upon prevailing in the action, recover costs and reasonable
22 attorney's fees in such action. In any action involving a
23 quota that prevented the compliance with applicable

1 regulations on workplace safety and health or meal or rest
2 break requirements, the injunctive relief shall be limited to
3 suspension of the quota and restitution and injunctive relief
4 to address any retaliation or other adverse action taken by
5 the employer in relation to the complaint or its enforcement.
6 In any action involving a retaliation in violation of this
7 Act, in addition to the relief authorized in this Section, a
8 prevailing current or former employee or his or her
9 representative shall be awarded damages equal to the greater
10 of \$10,000 or 3 times the actual damages, including, but not
11 limited to, unpaid wages and benefits.

12 Section 60. Attorney General; powers. The Attorney
13 General, either upon his or her own complaint or the complaint
14 of any person acting for themselves or the general public, has
15 the authority to prosecute actions, either civil or criminal,
16 for violations of this Act, or to enforce the provisions
17 thereof independently and without specific direction of the
18 Director.

19 Section 97. Severability. The provisions of this Act are
20 severable under Section 1.31 of the Statute on Statutes.

21 Section 99. Effective date. This Act takes effect 60 days
22 after becoming law.